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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,847	01/31/2001	Harald Krondorfer	1466	6258
7590 STRIKER, STRIKER & STENBY 103 East Neck Road Huntington, NY 11743			EXAMINER WEEKS, GLORIA R	
		ART UNIT	PAPER NUMBER 3721	
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/774,847	KRONDORFER ET AL.	
	Examiner	Art Unit	
	Gloria R. Weeks	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 September 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-29 is/are pending in the application.
  - 4a) Of the above claim(s) 12,13 and 18 is/are withdrawn from consideration.
- 5) Claim(s) 22 and 23 is/are allowed.
- 6) Claim(s) 11,14-17,19-21 and 24-28 is/are rejected.
- 7) Claim(s) 29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

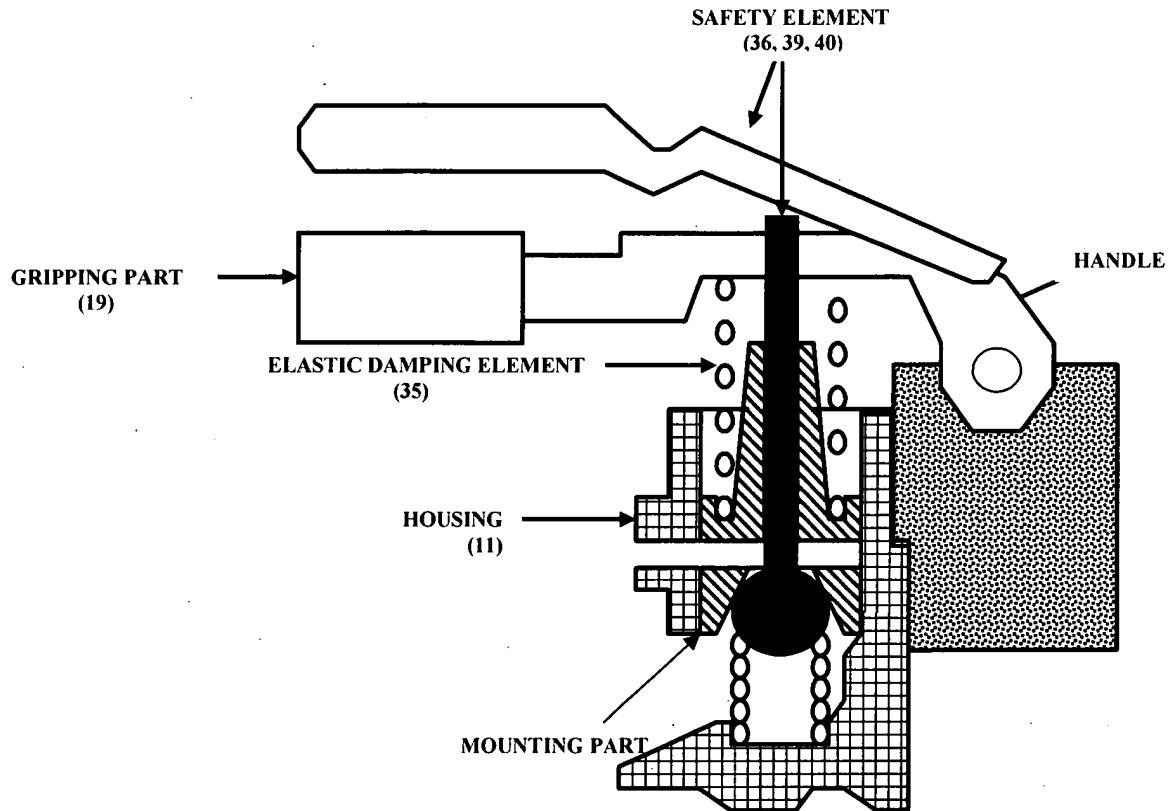
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 14-17, 19, 20, 24, 25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Johansson et al. (USPN 5,749,421).

Regarding claims 11, 14-17, 19, 20 and 21, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; a mounting part (supports 40 within 35; see illustration below); at least one elastic, vibration damping element 35 mounted on the mounting part, the at least one gripping part 19 being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable rigid 36, 40 safety element and non-rigid safety element 39 through which the gripping part 19 is connected with the mounting part, the safety element 36, 39, 40 being movable relative to the gripping part 19 in at least a tilting direction 36 and a longitudinal direction 39, 40 during a predetermined operation relative to the gripping part 13 to avoid a passage of vibration through the safety element 36, 39, 40, wherein the elastic element 35 surrounds the safety element 40.



With respect to claim 24, Johansson et al. discloses, a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; at least one elastic, vibration damping element 35; a mounting part (supports 40 within 35) on the elastic element (35; see illustration above); the at least one gripping part 19 being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable safety element 36.

In reference to claim 25, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; at least one elastic, vibration damping element 35; a mounting part (supports 40 within 35) on the elastic element (35; see

illustration above); the at least one gripping part 19 being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable safety element 36.

Regarding claim 26, Johansson et al. discloses a hand power tool comprising: a housing 11; at least one handle having at least one gripping part 19; a mounting part (supports 40 within 35; see illustration above); at least one elastic, vibration damping element 35 mounted on the mounting part, the at least one gripping part 1) being mounted on the housing 11 through the elastic element 35 and through the mounting part; at least one movable and non-rigid safety element 36, 40 through which the gripping part 19 is connected with the mounting part, the safety element 36, 39, 40 being movable relative to the mounting part in at least a tilting direction 36 and a longitudinal direction 39, 40 during a predetermined operation relative to the gripping part 19 to avoid a passage of vibration through the safety element 36, 39, 40, wherein the elastic element 35 surrounds the safety element 40.

#### *Allowable Subject Matter*

3. Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Upon examination, the art considered as a whole, alone or in combination, neither anticipated nor renders obvious the claimed handle mounted to a housing through an elastic element and a mounting part; and an additional element connecting a gripping part of the handle and the mounting part of the handle, wherein the element is movable with respect to the gripping part, as well as coaxially arranged with the gripping part, mounting part, and the elastic element.

Prior art, such as Chang (USPN 5, 273,120) discloses a hand power tool comprising: a housing 3; at least one handle having at least one gripping part 44; a mounting part 28; at least one elastic, vibration damping element 27 mounted on the mounting part 28, the at least one gripping part 44 being mounted on the housing 3 through the elastic element 27 and through the mounting part 28; and at least one rigid safety element coaxial with the gripping part, the mounting part and the elastic element. Chang does not disclose the safety element to be movable with respect to the gripping part of the handle.

5. Claims 22 and 23 are allowed.

***Response to Arguments***

6. Applicant's arguments filed September 25, 2007 with respect to claims 11, 14-17, 19-21, and 25-28 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., handle "fixedly" mounted on housing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims<sup>1</sup>.

Nonetheless, Examiner agrees that an unfixed handle of a power tool is deemed an inoperative handle. While the handle of Johansson et al. is mounted to the housing of the power tool via bolt 32, it should not go unnoticed that the handle is also supported by, thus mounted to the housing, via the elastic vibration damping element 14, as well as the mounting part.

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<sup>1</sup> See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. Applicant has argued that the push rod 40 of Johansson et al. cannot be defined as a safety element since no safety is provided by the push rod. Examiner has found the push rod 40 of Johnasson to indeed provide safety features, since one of ordinary skill in the art would define a trigger mechanism as a safety element. Such safety elements prevent unintended actuation of a tool in its state of rest or storage. As mentioned above, Examiner has broadly interpreted the term "connected" to be defined as joining or bringing together at least two objects to form a continuous unit. The portion 38 of the push rod (safety element) contacts the mounting part, and the push rod engages the lever 36, which is connected to the gripping part 19.

*Conclusion*

9. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

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